

1 Rene L. Valladares
2 Federal Public Defender
3 Nevada State Bar No. 11479
4 *Martin L. Novillo
5 Assistant Federal Public Defender
6 Virginia State Bar No. 76997
7 411 E. Bonneville Ave., Ste. 250
8 Las Vegas, Nevada 89101
9 (702) 388-6577
10 Martin_Novillo@fd.org

11 *Attorney for Petitioner Clifford McClain

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Clifford McClain,

Petitioner,

v.

Brian Williams, Warden, *et al.*,

Respondents.

Case No. 2:17-cv-00753-RFB-NJK

**Unopposed Motion for an
Extension of Time in which to file
Reply to Respondents' Answer
(Third request)**

1 Petitioner Clifford McClain (“Mr. McClain”) moves for an extension of time of
 2 forty-five days (45), up to and including Monday, July 18, 2022, to file his reply to
 3 Respondents’ answer to his petition for habeas relief. Respondents do not oppose this
 4 request.

5 On July 9, 2019, this Court appointed the Federal Public Defender, District of
 6 Nevada to Mr. McClain’s case. ECF No. 39.¹ Undersigned counsel filed Mr. McClain’s
 7 Third Amended Petition for a Writ of Habeas Corpus on June 12, 2020. ECF No. 48.
 8 Respondents filed their answer to Mr. McClain’s petition on January 3, 2022. ECF
 9 No. 77. On February 4, 2022, ECF No. 78, and again on April 7, 2022, ECF No. 81,
 10 this Court granted undersigned counsel’s requests for extension of time to file Mr.
 11 McClain’s Reply to Respondents’ Answer. For the reasons detailed below, counsel now
 12 seeks an additional forty-five (45) day extension to file the pleading. Respondents do
 13 not oppose counsel’s request.

14 An extension of time is merited on account of numerous filing deadlines and
 15 commitments undersigned counsel recently had to meet. Specifically, undersigned
 16 counsel had to draft a Reply in the capital habeas matter *Hernandez v. Gittere et al.*,
 17 09-cv-00545-LRH (D. Nev.). The pleading was approximately 418 pages long and was
 18 ultimately filed with this Court on May 4, 2022. In addition, counsel had to draft an
 19 Opposition to a Motion to Dismiss and a Motion for Discovery in the capital habeas
 20 matter *Biela v. Gittere, et al.*, CR08-2605 (2nd J.D. Nev.). The opposition was
 21 approximately 150 pages long and was filed on May 26, 2022 with the Second Judicial
 22 District Court of the State of Nevada.

23 In addition to the above-responsibilities, counsel will need to meet several
 24 deadlines in the coming weeks that render a forty-five (45) day extension necessary.

25

26 ¹ The appointment followed this Court entering an Order granting in part the
 27 Respondents’ motion to dismiss Mr. McClain’s second amended, proper person
 petition for habeas relief. ECF No. 39.

1 Specifically, counsel will need to draft a Reply in the non-capital habeas matter of
2 *Zanini v. Baker, et al.*, 18-cv-00336-MMD (D. Nev.), due on June 20, 2022. Drafting
3 the Reply, which counsel anticipates will be approximately 100 pages long, has
4 proven particularly time-consuming on account of the number of claims counsel has
5 to address as well as their complexity. In addition, counsel will need to draft an
6 Opening Brief due June 24, 2022 with the Ninth Circuit Court of Appeals in the non-
7 capital habeas matter *Robert Berry, Jr. v. Kyle Olsen, et al.*, 21-16943 (9th Cir.).

8 The above-duties and responsibilities are in addition to counsel's busy caseload
9 handling both non-capital and capital habeas matters currently pending in Nevada
10 and out-of-state district courts for which he is carrying on various investigations and
11 research and writing assignments.

12 Finally, the present request for an extension of time is unopposed. On June 3,
13 2022, counsel for Petitioner contacted Deputy Attorney Charles A. Finlayson via
14 email concerning this request for an extension of time. Mr. Finlayson has no objection
15 to the request. The extension of time will permit counsel time to properly address the
16 Respondents' answer. The request is not made for the purposes of delay, but rather
17 in the interests of justice.

18 WHEREFORE, counsel respectfully requests that this Court grant the request
19 for an extension of time so that Mr. McClain can file his reply by Monday July 18,
20 2022.

21
22
23
24
25
26
27

1 Dated June 3, 2022.

2 Respectfully submitted,

3
4 Rene L. Valladares
Federal Public Defender

5
6 /s/Martin L. Novillo
7 Martin L. Novillo
Assistant Federal Public Defender

8
9
10 IT IS SO ORDERED:

11
12 

13 RICHARD F. BOULWARE, II
14 United States District Judge

15 Dated: June 7, 2022